

#12 DAC

PTO/SB/64 (11-03)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

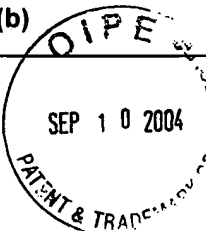
RECEIVED

First named inventor: KUD, YOUTI

Application No.: 09/853,803

Filed: MAY 14, 2001

Title: HANDHELD DIAGNOSTIC DEVICE WITH RENEWABLE BIOSENSOR



SEP 15 2004

Art Unit: 3736 **OFFICE OF PETITIONS**

Examiner: DAVID J. McCROSKY

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee \$ 665- (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of COMMENTS ON STATEMENT OF REASONS (identify type of reply):

☐ has been filed previously on JULY 21, 2003

☒ is enclosed herewith.

B. The issue fee of \$ _____

☐ has been paid previously on _____

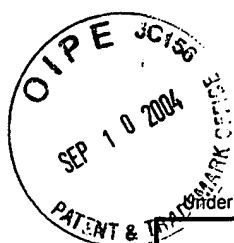
☐ is enclosed herewith.

FOR ALLOWANCE

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SEPT. 6, 2004

Date

Youti Ku

Signature

Telephone

Number: 585-231-5064

KUO, YOUTI

Typed or printed name

88 FOXBOURNE ROAD

Address

PENFIELD, NY 14526

Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

9/7/04

Date

Youti Ku

Signature

YOUTI KUO

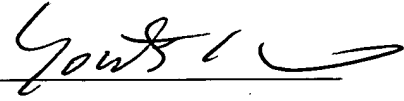
Type or printed name of person signing certificate

Statement

The entire delay in filing the required reply from the due date specified by the Office Action (07/16/03) for Application No. 09/853,803 was unintentional.

Date: September 6, 2004

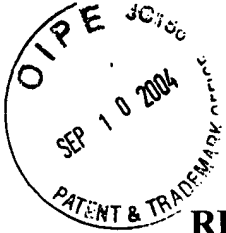
Signature: _____



Tel No.: 585-231-5064

Name: Youti Kuo

Address : 88 Foxbourne Road
Penfield, NY 14526



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SEP 15 2004

REPLY TO OFFICE ACTION

OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: YOUTI KUO :
Application No: 09/853,803 : Art Unit: 3736
Filed: 05/14/2001 : Examiner: David J. McCrosky
For: Handheld Diagnostic Device : Date: September 6, 2004
With Renewable Biosensor

Honorable Commissioner of
Patents and Trademarks
Washington DC 20231

Sir:


Comments On Statement Of Reasons For Allowance

In the Office Action (07/16/03), Claims 1-4, 6, 9-16 and 18 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-3, 5-8, 11-14, 16 and 17 of copending Application No. 09/802,988 by Kuo. Claims 22 and 23 were allowed. Claims 5, 7, 8, 17 and 19-21 were objected to as being dependent upon a rejected base claim.

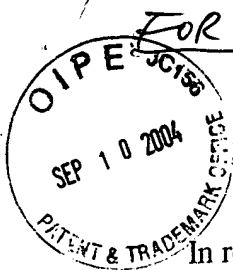
Applicant herewith inform the Examiner that Claims 1-23 in Application No. 09/802,988 had been canceled as stated in the Amendment by Examiner Samuel P. Siefke in response to the Authorization (04/21/03) on the telephone interview with Fred Denson who represented the Applicant. Due to the cancellation, the patent of Application No. 09/802,988 (since issued as US Patent NO. 6,623,698) does not include Claims 1-23. A copy of Notice of Allowability by Samuel P. Siefke on Application No. 09/802,988 is attached for reference.

With the cancellation of Claims 1-23 of Application No. 09/802,988, the obviousness-type double patenting will not be applicable to Claims 1-21 in Application No. 09/853,803. Therefore, the stated reason for the provisional rejection of Claims 1-4, 6, 9-16 and 18, as well as objection of Claims 5, 7, 8, 17 and 19-21 is removed. Thus, favorable reconsideration and allowance on all claims for Application No. 09/853,803 are respectfully requested.

Respectfully submitted,


Youti Kuo, Applicant

88 Foxbourne Road, Penfield, NY 14526
Tel: 585-231-5064



FOR REFERENCE ONLY

This is a copy of the previous ~~copy~~ sent to the Patent Office in July 2003.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of YOUTI KUO

Application No.: 09/853,803 : Art Unit 3736
Filed : 05/14/2001 : Examiner: David J. McCrosky
For : Handheld Diagnostic Device : Date: July 21, 2003
With Renewable Biosensor

Honorable Commissioner of
Patents and Trademarks
Washington, DC 20231

Sir:

Comments On Statement Of Reasons For Allowance

In the Office Action (07/16/03), Claims 1-4, 6, 9-16 and 18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-3, 5-8, 11-14, 16 and 17 of copending Application No. 09/802,988 by Kuo. Claims 22 and 23 are allowed. Claims 5, 7, 8, 17 and 19-21 are objected to as being dependent upon a rejected base claim.

Applicant herewith inform the Examiner that Claims 1-23 in Application No. 09/802,988 had been canceled as stated in the Amendment by Examiner Samuel P. Siefke in response to the Authorization (04/21/03) on the telephone interview with Fred Denson who represented the Applicant. Due to the cancellation, the patent of Application No. 09/802,988 which is to be issued will not include Claims 1-23. A copy of Notice of Allowability by Samuel P. Siefke on Application No. 09/802,988 is attached for reference.

With the cancellation of Claims 1-23 of Application No. 09/802,988, the obviousness-type double patenting will not be applicable to Claims 1-21 in Application No. 09/853,803. Therefore, the stated reason for the provisional rejection of Claims 1-4, 6, 9-16 and 18, as well as objection of Claims 5, 7, 8, 17 and 19-21 is removed. Thus, favorable reconsideration and allowance on all claims for Application No. 09/853,803 are respectfully requested.

Respectfully submitted,

Youti Kuo
Youti Kuo, Applicant
88 Foxbourne Road
Penfield, NY 14526
Tel: 585-231-5064



**Renewed Petition to Withdraw Holding of Abandonment
Under 37 CFR 1.181**

September 6, 2004

In re Application of: Youti Kuo
Serial No. : 09/853,803
Filed : May 14, 2001
For : Handheld Diagnostic Device
with Renewable Biosensor

Honorable Commissioner of
Patents and Trademarks
Washington DC 20231

Sir:

Per advice by the letter (7/27/04) of Director, John E. Kittle, of the Technology Center 3700 of the Patent Office, I hereby submitted the Renewed Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181 with the required Petition Form, Petition Fee, Statement and Reply. For reference, a copy of my earlier reply dated July 21, 2003 is enclosed with this submission. This earlier reply had not been found in the Patent Office's record.

Respectfully submitted,

Youti Kuo, Applicant
88 Foxbourne Road, Penfield, NY 14526
Tel: 585-231-5064